

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

LINDA POPLAWSKI,

Plaintiff,

vs.

ERIC PEDERSEN, ROSE RICHARDSON;  
and DOLLAR TREE,

Defendant.

No.

COMPLAINT

**I. INTRODUCTION**

On August 14, 2017, the King County Superior Court dismissed a first-degree arson charge against Linda Poplawski in case #16-1-07774-5 after her attorney discovered that Kent Police fire investigator Eric Pedersen willfully withheld exculpatory evidence, violating her rights under the Sixth Amendment.

Officer Pedersen arrested Ms. Poplawski nine months earlier on November 13, 2016, accusing her of starting a devastating fire at the Dollar Tree store on Pacific Highway South in Kent, Wash. Based on Officer Pedersen's investigation, the state charged Ms. Poplawski on

1 November 16, 2016.

2 By at least November 19, 2016, Officer Pedersen had independent and compelling  
3 information pointing to a previously convicted arsonist entirely unconnected Ms. Poplawski, but  
4 he withheld that information from the defense team for the entirety of the prosecution. The  
5 defense team did not learn of this exculpatory evidence until nine months later, when it was on  
6 the brink of trial. Even then, the evidence was provided by Kent police only in response to a  
7 defense subpoena.

8 In response to that subpoena served directly on the Kent Police Department, Ms.  
9 Poplawski's defense team received this evidence on August 8, 2017, and brought it immediately  
10 to the attention of the prosecuting attorney, who dismissed the case.

12 As a result of this violation of her constitutional rights, Ms. Poplawski served about eight  
13 months in confinement under fear of criminal conviction for a Class A felony that she knew she  
14 did not commit.

16 **II. PARTIES**

- 17 1. Plaintiff Linda Poplawski is a citizen of the United States and a resident of  
18 King County, Washington.
- 19 2. Defendant Eric Pedersen was a fire captain employed by the Puget Sound  
20 Regional Fire Authority (PSRFA) and/or the Kent Police Department (KPD)  
21 at all relevant times. Upon information and belief, Defendant Pedersen is  
22 believed to reside in the State of Washington. In committing the acts and  
23 omissions alleged, Defendant Pedersen was acting under color of state law  
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1 and within the course and scope of his employment by PSRFA and also as an  
2 arson detective in the Kent Police Department. Defendant Pedersen is sued  
3 in his official and individual capacities.

4 3. John Does 1-5 are unknown agents of the City of Kent or the PSRFA and  
5 KPD. The residences of John Does 1-5 are unknown. Upon information and  
6 belief, John Does 1-5 reside in the State of Washington.

7 4. Defendant Rose Richardson was an employee of Dollar Tree in Kent,  
8 Washington, on November 13, 2016, and worked at that store on Pacific  
9 Highway South that day.

10 5. Dollar Tree is a corporation that does business in the state of Washington  
11 and that did business on Pacific Highway South in Kent, Washington, on  
12 November 13, 2016.  
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15 **III. JURISDICTION & VENUE**

16 1. This action is brought pursuant to 42 U.S.C. § 1983 for violations of the  
17 Fourth, Sixth, and Fourteenth Amendments to the United States Constitution  
18 and for a violation of Washington common law.

19 2. The court has original jurisdiction over this action under 28 U.S.C. §§ 1331  
20 and 1343 and under supplemental jurisdiction under 28 U.S. Code § 1367.

21 3. The claims arose in King County, Washington, rendering venue proper in the  
22 the Western District of Washington, Seattle courthouse, under 28 U.S.C.

23 §1391(b)(2).  
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- 1                   4. Jurisdiction also is proper in this district because at least two defendants are  
2                   residents of this district.

3  
4 **IV. FACTS**

- 5                   1. Linda Poplawski was shopping at the Dollar Tree store on Pacific Highway  
6                   South in Kent, Washington, on November 13, 2016.  
7  
8                   2. She is a long-time, frequent customer because of her restricted income and  
9                   the store's proximity to her home in Des Moines, Washington. She was  
10                  known to experienced staffers as a trouble-free customer.  
11  
12                  3. Ms. Poplawski was shopping for food and cleaning products, as well as toys  
13                  and coloring supplies for her grandchildren and the children of friends,  
14                  whom she would host for playdates.  
15  
16                  4. While browsing the store, Ms. Poplawski noticed that a fire started inside  
17                  and alerted the staff to it.  
18  
19                  5. Ms. Poplawski called 911 at 2:31:29 p.m., within four and a half minutes of  
20                  the initial fire report to 911 at 2:27:01 p.m from the cell phone of one of the  
21                  store employees.  
22  
23                  6. Ms. Poplawski reported that smoke was filling the inside of the business  
24                  from the back room, though she did not know what was on fire and saw no  
                    flames. Also, she noted that employees were evacuating the store.  
                    7. When police and firefighters arrived to the scene, they interviewed the store  
                    employees.

- 1 8. Employee Rose Richardson, who was new to the job and was staffing the  
2 front register, told Defendant Pedersen that Ms. Poplawski on November 13  
3 was upset about the lack of shopping carts available to customers and,  
4 because of that frustration, announced clearly and loudly that she intended to  
5 burn down the store.
- 6 9. Ms. Richardson reported that Ms. Poplawski then returned to the front of the  
7 store 90 seconds later to declare that the store was on fire.
- 8 10. Ms. Richardson later told defense interviewers that she was the only cashier  
9 at the time and that there were eight or nine customers in line.
- 10 11. Ms. Richardson also told defense interviewers that she saw a “Mexican guy  
11 or Hawaiian guy, him and his wife” in store at the same time.
- 12 12. Defendant Pedersen made no attempt to identify or interview any of the  
13 eight or nine customers who could have corroborated Ms. Richardson’s  
14 allegation if she were telling the truth.
- 15 13. Defendant Pedersen neglected to discover that Ms. Richardson was a new  
16 employee on her first week.
- 17 14. On November 13, 2016, an anonymous caller to 911 offered information  
18 about the Dollar Tree fire.
- 19 15. The same day, KPD Officer Desjardin called back the number of the  
20 anonymous caller to follow up.
- 21 16. Officer Desjardin immediately documented the call and interview in the  
22 KPD electronic reporting system.
- 23
- 24

1 17. A man who answered Officer Desjardin's call reported that a local man  
2 named Michael Poasa admitted starting a fire at Dollar Tree as a distraction  
3 from what he thought was staff suspicion of his actual attempt to shoplift  
4 from the store.

5 18. The caller gave a physical description of Poasa and reported that he was a  
6 dangerous gang member who used the moniker of Coconut. He also  
7 provided a location where Poasa was staying.

8 19. The caller said he had just encountered Poasa when he and a another person  
9 picked up Poasa on Pacific Highway South near Kent-Des Moines Road.

10 20. The caller quoted Poasa as saying in the car that "I was in the Dollar Tree  
11 arguing with my wife and I thought they knew I was stealing so I lit a small  
12 fire in the back to cause a distraction and then the whole back went up."

13 21. The caller said he withheld his name because he was afraid of Poasa.

14 22. After the call, Officer Desjardin investigated Poasa and found in "police  
15 databases" evidence of a Michael Poasa with gang ties, as described by the  
16 anonymous caller.

17 23. Officer Desjardin documented his involvement and the details of his brief  
18 investigation on November 13, 2016, by entering his report directly into the  
19 department's electronic investigation management system that day.

20 24. According to his handwritten notes, Defendant Pedersen reviewed the  
21 Desjardin report the next morning, November 14, 2016, at 7:15 a.m. He  
22 called Dollar Tree employees Richardson and Strong to ask them if they had  
23  
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1           seen anyone matching the description provided by the caller to whom  
2           Desjardin spoke. The employees said they had not.

3           25. Defendant Pedersen documented his brief follow-up investigation, but  
4           claimed in his report that he conducted the follow-up on November 19,  
5           2016, by entering his report directly into the department's electronic  
6           investigation management system that day.

7           26. Defendant Pedersen failed to provide either his follow-up report or Officer  
8           Desjardin's report to the office of the King County Prosecutor with the rest  
9           of the investigation materials.

10           27. Defendant Pedersen's handwritten note about "Follow-up 11-14-16 on  
11           Conconut" was provided in discovery toward the end of the case, but that  
12           note did not reveal the nature of the inquiry.

13           28. The formal reports were not provided to Ms. Poplawski's defense attorney  
14           until August 8, 2017.

15           29. The reports were provided that day in response to a subpoena for production  
16           issued by Ms. Poplawski's defense lawyer directly to the Kent Police  
17           Department and served on July 31, 2017.

18           30. On August 14, 2017, the state moved to dismiss the criminal case against  
19           Ms. Poplawski because of "Evidentiary concerns and in the interest of  
20           justice."

21           31. The court granted the motion.

22           32. Ms. Poplawski spent the entirety of her criminal case in complete or partial  
23  
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1 confinement.

2  
3 **V. CLAIMS**

4 **A. SIXTH AMENDMENT “BRADY” VIOLATION PURSUANT TO 42 U.S.C. §**  
5 **1983 AGAINST DEFENDANT PEDERSEN**

- 6 1. Defendant Pedersen acted under color of state law with deliberate  
7 indifference to deprive Ms. Poplawski of her constitutionally protected right  
8 to receive any exculpatory evidence;  
9 2. The actions of Defendant Pedersen were the direct and proximate cause of  
10 damages to Ms. Poplawski as alleged in this Complaint.

11 **B. MALICIOUS PROSECUTION PURSUANT TO 42 U.S.C. § 1983 AGAINST**  
12 **DEFENDANT PEDERSEN**

- 13 1. Defendant Pedersen instituted a criminal prosecution against Plaintiff;  
14 2. There was no probable cause for the institution or continuation of the  
15 prosecution;  
16 3. The prosecution was instituted or continued through malice;  
17 4. The prosecution was instituted or continued for the purpose of depriving  
18 Plaintiff of her rights under the Fourth and Fourteenth Amendments to the  
19 United States Constitution;  
20 5. The prosecution was terminated or abandoned in favor of Plaintiff; and  
21 6. Plaintiff suffered injury or damage as a result of the prosecution.

22 **C. DEFAMATION BY DEFENDANTS RICHARDSON AND DOLLAR TREE**  
23 **UNDER WASHINGTON STATE COMMON LAW**  
24

1. Defendant Richardson made a provably false statement about Ms. Poplawski to a Kent police arson investigator that Ms. Poplawski declared an intent to set fire there to the Dollar Tree premises where Richardson worked in Kent, WA, on November 13, 2016;
2. The statement was unprivileged;
3. Defendant Richardson was at fault for the statement that she made;
4. Defendant Richardson's statement about Ms. Poplawski caused damages to her by precipitating her incarceration; and
5. Defendant Dollar Tree is vicariously liable for the defamation by Defendant Richardson, an employee.

**VI. JURY DEMAND**

Plaintiff demands a trial by jury.

**VII. RELIEF**

Plaintiff requests the following relief:

1. Judgment in an amount to be proven at trial against Defendants.
2. An award of taxable costs and attorneys fees.
3. Such other relief as the court deems just and equitable.

Date: November 27, 2018.

By Carney Gillespie Isitt PLLP, Attorneys for Plaintiffs:

s/Sean P. Gillespie  
s/Sean P. Gillespie, WSBA #35365  
[Sean.Gillespie@CGILaw.com](mailto:Sean.Gillespie@CGILaw.com)

1 s/Christopher R. Carney  
2 Christopher R. Carney, WSBA #30325  
3 [christopher.Carney@CGILaw.com](mailto:christopher.Carney@CGILaw.com)

4 s/Kenan L. Isitt  
5 Kenan L. Isitt, WSBA #35317  
6 [kenan.Isitt@CGILaw.com](mailto:kenan.Isitt@CGILaw.com)

7 Carney Gillespie Isitt PLLP  
8 600 1st Ave., Suite LL08  
9 Seattle, WA 98104  
10 Phone & Fax: (206) 445-0220  
11  
12  
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14  
15  
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